IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6870 OF 2004

Smt.Alka Vasant Khomane & Ors..Petitioners

Versus

Smt.Patasibai Kundanmal Sancheti
since deceased through her
heirs:-
1(a) Surajmall Kundanmal Sancheti
& Ors.....Respondents

Mr. R.G. Ketkar, for the Petitioner
Mr. G.S. Godbole, for the Respondent Nos. 1B, 2, 3,
4A,5,6-A, 7A and 7B.
Mr.Sandesh Deshpande & Ms. A.J. Deshmukh, for Respondent
No.1.

CORAM: F.I. REBELLO J.
DATE : 10th January, 2005

P.C.:

. This is a petition against the orders of the Courts below rejecting the application for interim relief in a pending suit. From the record it will be clear that a sale deed was executed by the predecessor in title of the petitioners in the year 1966. These were challenged in the year 1988. Temporary injunction was applied for. That was rejected. The only contention advanced on behalf of the petitioners herein is that considering the provisions of the Bombay Inferior Village Watans Abolition Act, 1958 and more particularly Section 5(3) the transfer itself is null and void and in these circumstances the respondents should not be allowed to create third party rights in respect of the suit property. It is not necessary for this Court to deal with the issue at this prima facie stage. Admittedly the Respondents

are in possession. The effect of an invalid transfer under Section 5(3) is that under Section 9 it is open to the Collector to resume the land from the unauthorised holder if it be so.

2. Once that be the case and considering that earlier application for injunction has been rejected this will not be a fit case for this Court to exercise its extra ordinary jursidction. Writ Petition rejected. All interim orders stand vacated.

(F.I.REBELLO, J.)